

**Petition for Relief From a Conviction or Sentence
By a Person in State Custody**

(Petition Under 28 U.S.C. § 2254 for a Writ of Habeas Corpus)

Instructions

1. To use this form, you must be a person who is currently serving a sentence under a judgment against you in a state court. You are asking for relief from the conviction or the sentence. This form is your petition for relief.
2. You may also use this form to challenge a state judgment that imposed a sentence to be served in the future, but you must fill in the name of the state where the judgment was entered. If you want to challenge a federal judgment that imposed a sentence to be served in the future, you should file a motion under 28 U.S.C. § 2255 in the federal court that entered the judgment.
3. Make sure the form is typed or neatly written.
4. You must tell the truth and sign the form. If you make a false statement of a material fact, you may be prosecuted for perjury.
5. Answer all the questions. You do not need to cite law. You may submit additional pages if necessary. If you do not fill out the form properly, you will be asked to submit additional or correct information. If you want to submit a brief or arguments, you must submit them in a separate memorandum.
6. You must pay a fee of \$5. If the fee is paid, your petition will be filed. If you cannot pay the fee, you may ask to proceed in forma pauperis (as a poor person). To do that, you must fill out the last page of this form. Also, you must submit a certificate signed by an officer at the institution where you are confined showing the amount of money that the institution is holding for you.
7. In this petition, you may challenge the judgment entered by only one court. If you want to challenge a judgment entered by a different court (either in the same state or in different states), you must file a separate petition.
8. When you have completed the form, send the original to the Clerk of the United States District Court at this address:

United States District Court
Eastern District of Washington
PO BOX 1493
Spokane, WA 99210-1493

If you want a file-stamped copy of the petition, you must enclose an additional copy of the petition and ask the court to file-stamp it and return it to you.

9. **CAUTION: You must include in this petition all the grounds for relief from the conviction or sentence that you challenge. And you must state the facts that support each ground. If you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.**
10. **CAPITAL CASES: If you are under a sentence of death, you are entitled to the assistance of counsel and should request the appointment of counsel.**

PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF
HABEAS CORPUS BY A PERSON IN STATE CUSTODY

Apr 09, 2021

SEAN F. McAVOY, CLERK

United States District Court	District: <i>Eastern District of Washington</i>
Name (under which you were convicted): <i>David Maier</i>	Docket or Case No.: 2:21-cv-00137-TOR
Place of Confinement: <i>Washington Corrections Center P.O. Box 9100 Shelton WA 98584</i>	Prisoner No.: <i>338250</i>
Petitioner (include the name under which you were convicted) <i>David Maier</i>	Respondent (authorized person having custody of petitioner) <i>v. State of Washington (County of Chelan)</i>
The Attorney General of the State of:	

PETITION

1. (a) Name and location of court that entered the judgment of conviction you are challenging:

*Chelan County Regional Justice Center
901 Washington St LVL 2
Wenatchee WA, 98801*

- (b) Criminal docket or case number (if you know):

2. (a) Date of the judgment of conviction (if you know): *1/28/21*

- (b) Date of sentencing: *2/2/21*

3. Length of sentence: *55 months*

4. In this case, were you convicted on more than one count or of more than one crime? Yes No

5. Identify all crimes of which you were convicted and sentenced in this case:

*1) Taking
Motor Vehicle 2) Theft of Motor Vehicle
3) Felony elude*

6. (a) What was your plea? (Check one)

- | | | | |
|---|------------|------------------------------|------------------------------|
| <input checked="" type="checkbox"/> (1) | Not guilty | <input type="checkbox"/> (3) | Nolo contendere (no contest) |
| <input type="checkbox"/> (2) | Guilty | <input type="checkbox"/> (4) | Insanity plea |

(b) If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to?

on all charges

I pled Not guilty

(c) If you went to trial, what kind of trial did you have? (Check one)

Jury Judge only

7. Did you testify at a pretrial hearing, trial, or a post-trial hearing?

Yes No

8. Did you appeal from the judgment of conviction?

Yes No

9. If you did appeal, answer the following:

(a) Name of court: *Court of Appeals Division 3*

(b) Docket or case number (if you know): _____

(c) Result: *Unknown*

(d) Date of result (if you know): _____

(e) Citation to the case (if you know): _____

(f) Grounds raised: *1) Violation of speedy trial 2) Violation of due process 3) prosecutorial Misconduct 4) Malicious Misconduct 5) government misconduct Arbitrary Action 6) Violation of equal protection*

(g) Did you seek further review by a higher state court? Yes No

If yes, answer the following:

(1) Name of court: *Washington State Supreme Court*

(2) Docket or case number (if you know): _____

(3) Result: *Under Review*

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(4) Date of result (if you know): _____

(5) Citation to the case (if you know): _____

(6) Grounds raised: *(Violation of speedy trial)*
Violation of due process(h) Did you file a petition for certiorari in the United States Supreme Court? Yes No

If yes, answer the following:

(1) Docket or case number (if you know): *NA*(2) Result: *NA*(3) Date of result (if you know): *NA*(4) Citation to the case (if you know): *NA*10. Other than the direct appeals listed above, have you previously filed any other petitions, applications, or motions concerning this judgment of conviction in any state court? Yes No

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court: *Court of Appeals division 3*

(2) Docket or case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: *personal Restrint petition*(5) Grounds raised: *I don't remember*

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

 Yes No(7) Result: *still waiting*

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(8) Date of result (if you know): _____
NA

(b) If you filed any second petition, application, or motion, give the same information:

(1) Name of court: _____
NA(2) Docket or case number (if you know): _____
NA(3) Date of filing (if you know): _____
NA(4) Nature of the proceeding: _____
NA(5) Grounds raised: _____
*NA**NA**NA**NA*

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

 Yes No
NA(7) Result: _____
NA(8) Date of result (if you know): _____
NA

(c) If you filed any third petition, application, or motion, give the same information:

(1) Name of court: _____
NA(2) Docket or case number (if you know): _____
NA(3) Date of filing (if you know): _____
NA(4) Nature of the proceeding: _____
NA(5) Grounds raised: _____
*NA**NA**NA**NA*

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

 Yes No

(7) Result:

NA

NA

(8) Date of result (if you know):

(d) Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion?

(1) First petition: Yes No(2) Second petition: Yes No(3) Third petition: Yes No

(e) If you did not appeal to the highest state court having jurisdiction, explain why you did not:

Long Delay from lots of other cases, covid,
and wait

12. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

GROUND ONE: Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

on 8/14/20 went to police dept, obtained evidence by entering into a bar without a search warrant, that had papers with my name on it, that they used to apprehend me and convict me. On 1/27/21 to 1/28/21 at trial Clinton County Sheriff & prosecutor used that evidence that was obtained without a search warrant to get a conviction

(b) If you did not exhaust your state remedies on Ground One, explain why:

I attempted a Habeas Corpus During trial but it was denied by the same Judge that violated my speedy trial right.

(c) Direct Appeal of Ground One:

(1) If you appealed from the judgment of conviction, did you raise this issue? Yes No

(2) If you did not raise this issue in your direct appeal, explain why:

*because I am a
indigent person with little knowledge of the law and
legal process but my rights have been violated and I'm seeking relief*

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

 Yes No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition:

NA

Name and location of the court where the motion or petition was filed:

NA

Docket or case number (if you know):

NA

Date of the court's decision:

NA

Result (attach a copy of the court's opinion or order, if available):

NA(3) Did you receive a hearing on your motion or petition? Yes No(4) Did you appeal from the denial of your motion or petition? Yes No(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? Yes No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

NA

Docket or case number (if you know):

NA

Date of the court's decision:

NA

Result (attach a copy of the court's opinion or order, if available):

NA

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

*Because I still haven't been convicted, and I am
a indigent person with little knowledge of the
law and legal process*

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One: I'm filing a habeas corpus

GROUND TWO:

conviction obtained by the unconstitutional failure of the prosecution to disclose evidence favorable to the defendant

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

RCW 9.94A.411 Evidentiary sufficiency explains in detail the investigation process that prosecutors are to use to have all facts pertaining to the case to convict. prosecutor Ryan Vallas violated RCW 9.94A.411(2) which describes the standard procedure of investigation, that police are to conduct a investigation according to constitutional standards to obtain the defendant's versions of the events, but police did not do so. Nor did the prosecutor have it obtained, which is a fact of procedural due process of the constitution that the prosecutor failed to disclose

(b) If you did not exhaust your state remedies on Ground Two, explain why: I am a indigent person with little knowledge of the law, ate the legal process but my rights have been violated and it is causing me irreparable injury and I am seeking relief

(c) **Direct Appeal of Ground Two:**

(1) If you appealed from the judgment of conviction, did you raise this issue? Yes No

(2) If you did not raise this issue in your direct appeal, explain why:

NA

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: Motion to Dismiss CR33, CR 8.3

Name and location of the court where the motion or petition was filed: Chelan County Superior Court for the State of Washington

Docket or case number (if you know): 20-1-00462-04

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Date of the court's decision:

I don't remember 1/21/21

Result (attach a copy of the court's opinion or order, if available):

Denial of my motion
without any legal reasoning or merit

(3) Did you receive a hearing on your motion or petition?

 Yes No

(4) Did you appeal from the denial of your motion or petition?

 Yes No(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? Yes No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

NA

Docket or case number (if you know):

NA

Date of the court's decision:

NA

Result (attach a copy of the court's opinion or order, if available):

NA

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

I raised this issue in a Appeal of trial but
I have not received any response or order

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Two : NA

GROUND THREE: Conviction obtained by the failure to (impose)
a grand jury to indict, or present

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim):

in the superior court case number 20-1-00462-01
of Chelan County, the court, and prosecutor did not
have a presentment or indictment by a grand jury, and
that is a violation of the 9th Amendment and 14th
Amendment of the constitution, and violated my right to be present

(b) If you did not exhaust your state remedies on Ground Three, explain why: *I am a indigent person with little knowledge of the law and they legal process but my constitutional rights are being violated and it's causing me irreparable injury I'm seeking relief for*

(c) **Direct Appeal of Ground Three:**

(1) If you appealed from the judgment of conviction, did you raise this issue? Yes No

(2) If you did not raise this issue in your direct appeal, explain why: *Washington state has construed the constitution to deny citizens the right of a grand jury*

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: *NA*

Name and location of the court where the motion or petition was filed: *NA*

Docket or case number (if you know): *NA*

Date of the court's decision: *NA*

Result (attach a copy of the court's opinion or order, if available): *NA*

(3) Did you receive a hearing on your motion or petition? Yes No

(4) Did you appeal from the denial of your motion or petition? Yes No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? Yes No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: *NA*

Docket or case number (if you know): *NA*

Date of the court's decision: *NA*

Result (attach a copy of the court's opinion or order, if available): *NA*

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

I am a indigent person with little knowledge of the law and the legal process but my rights are being violated and it is causing me irreparable injury

- (e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three: *N/A*

GROUND FOUR: *Violation of my right to speedy trial*

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

at my first appearance on 8/16/20 I verbally invoked all of my constitutional rights before a judge and CRR 3 says a defendant detained in jail shall be brought to trial within 60 Days, chelan county superior court did NOT bring me to trial for over 100 Days and did not follow the procedural due process of getting a continuance which is required in the administration of justice

(b) If you did not exhaust your state remedies on Ground Four, explain why:

= exhausted

This to the best of my knowledge, but I am a indigent person with little knowledge of the law, and legal process and limited access to a law library

(c) **Direct Appeal of Ground Four:**

(1) If you appealed from the judgment of conviction, did you raise this issue? Yes No

(2) If you did not raise this issue in your direct appeal, explain why:

N/A

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: *Motion to DISMISS speedy trial violation CIR 3.3 (CR8.3)*

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Name and location of the court where the motion or petition was filed:

superior courtcheney countyDocket or case number (if you know): 20-1-00962-09Date of the court's decision: multiple motions and decisions 12/31/20Result (attach a copy of the court's opinion or order, if available): not available

(3) Did you receive a hearing on your motion or petition?

 Yes No

(4) Did you appeal from the denial of your motion or petition?

 Yes No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

 Yes No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

washington state court of appealsDiv. 3, request for discretionary review Washington State Supreme CourtDocket or case number (if you know): supreme court NO. 19297-9Date of the court's decision: still in reviewResult (attach a copy of the court's opinion or order, if available): still in review

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

N/A

- (e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four:

personal restraint petition, interlocutory Appeal, & Request for Discretionary review

13. Please answer these additional questions about the petition you are filing:

- (a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction? Yes No

If your answer is "No," state which grounds have not been so presented and give your reason(s) for not presenting them:

Grounds 1 & 2 in this petition have not been presented because I have NO knowledge or assistance to know where or how to exhaust any other remedies

- (b) Is there any ground in this petition that has not been presented in some state or federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them:

Grounds 1 & 2 in this petition have Not been presented because I have NO knowledge or assistance to know where or how to exhaust any other remedies

14. Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction that you challenge in this petition? Yes No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinion or order, if available.

N/A

15. Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, for the judgment you are challenging? Yes No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised.

Court of Appeals Division 3, Washington State Supreme Court request for discretionary review, 1) speedy trial Violation
2) Violation of Due process to provide medical assistance

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16. Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing:

unknown

(b) At arraignment and plea:

sungling poliquin, chelan county
public for defense

(c) At trial:

pro-se

(d) At sentencing:

pro-se

(e) On appeal:

pro-se

(f) In any post-conviction proceeding:

pro-se

(g) On appeal from any ruling against you in a post-conviction proceeding:

still in review

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes No

(a) If so, give name and location of court that imposed the other sentence you will serve in the future:

N/A

(b) Give the date the other sentence was imposed:

Not

(c) Give the length of the other sentence:

N/A(d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the future? Yes No

18. TIMELINESS OF PETITION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2244(d) does not bar your petition.*

N/A

* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2244(d) provides in part that:

- (1) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of -
 - (A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;
 - (B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such state action;
 - (C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
 - (D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

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- (2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

Therefore, petitioner asks that the Court grant the following relief:

*dismiss charges against
petitioner for multiple violations of constitutional rights
and provide the medical Attention to his need and release him*

or any other relief to which petitioner may be entitled.

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Petition for Writ of Habeas Corpus was placed in the prison mailing system on _____ (month, date, year).

Executed (signed) on 3/8/21 (date).



Signature of Petitioner

If the person signing is not petitioner, state relationship to petitioner and explain why petitioner is not signing this petition.
